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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,528	10/07/2005	Urs Reuteler	045-102	5960

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KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON, KY 40507

EXAMINER	
HARMON, CHRISTOPHER R	

ART UNIT	PAPER NUMBER
3721	

MAIL DATE	DELIVERY MODE
08/27/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/532,528	REUTELER ET AL.	
	Examiner	Art Unit	
	Christopher R. Harmon	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 May 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,9-15,106-109 and 111-113* is/are pending in the application.

4a) Of the above claim(s) *10-15 and 19* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-6,9,106-109 and 111-113* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. *5/13/08*.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 109, 111-112 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The "support surface for supporting the carton" is not contiguous as one would be ordinarily led to believe by claiming multiple portions of the same surface and then creates confusion how one portion of the surface overlies the other transverse portion. The examiner takes note that the terminal end of the overhead conveyor overlies the infeed end of the transverse takeaway conveyor, however is not sure how the overlying portion of the overhead conveyor is part of a "support surface for supporting the carton" as the cartons are conveyed by lugs along a surface below the overhead conveyor; as shown in applicant's figure 3a.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 109 and 112 are rejected under 35 U.S.C. 102(b) as being anticipated by Steele (US 3,187,483).

Steele discloses a machine for folding boxes comprising lug conveyors c and e in an L shaped plan; see figure 1 with a takeaway conveyor comprising parallel conveyor chains h, i, 168, and 169 located adjacent and perpendicular to one another; folding means/stationary plows 57 and rollers j, k for first and second flaps respectively; adhesive applicator means n; see figure 1. Lugs are considered retracted and upstanding to selectively engage containers.

Note the means for conveying the carton along the first portion does not meet the analysis under 35 USC 112(6). The means for conveying the carton to the second end invokes treatment under 35 USC 112(6), however is anticipated by the takeaway conveyor of Steele. Furthermore the means for folding the flap while also invoking this section is anticipated.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-6, 9, 106-108, 111, and 113 are rejected under 35 U.S.C. 103(a) as obvious over Steele (US 3,187,483) in view of Disrud (US 5,501,318).

Steele discloses a machine for folding boxes comprising lug conveyors c and e in an L shaped plan; see figure 1 with a takeaway conveyor comprising parallel conveyor chains h, i, 168, and 169 located adjacent and perpendicular to one another; folding means/stationary plows 57 and rollers j, k for first and second flaps respectively;

adhesive applicator means n; see figure 1. Lugs are considered retracted and upstanding to selectively engage containers.

The first conveyor c is not directly disclosed as an overhead conveyor however Steele notes that containers are fed from the closing apparatus "upon a lugged link belt or other appropriate conveyor c" (column 3, lines 56+). Disrud provides an overhead lugged conveyor for conveyance of packaging materials along a surface; see figure 1. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the overhead conveyance system of Disrud in the invention to Steele for providing the cartons along the first portion of the surface.

Regarding claim 5, Steele describes closing flaps of the container previous to the engagement of the container by lugged conveyor c, see column 3, lines 55+, however does not discuss the device that closes (at least partially) the flaps. As admitted in applicant's response of 5/14/08, rotatable wheels with radially projecting extentions are well known in the art for at least partially closing flaps. It would have been obvious at the time of the invention to close the flaps (at least one partially) of the container of Steele by a rotatable wheel having at least one radially extending projection for closing flaps as the containers passed through the production cycle.

Regarding claims 106 and 108, the conveyor c extends beyond the takeaway conveyor e, therefore an overhead conveyor in the same position would overlie the other as claimed.

7. Claims 4, 107-108 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Steele (US 3,187,483) in view of Moncrief et al. (US 5,638,659).

While lugs of the conveyors of Steele selectively (via controlled rotation of the drive wheels) pop-up/pivot into and out of the conveying path via rotation, pop-up lugs 63 are known in the art as taught by Moncrief et al. It would have been obvious to one of ordinary skill in the art to use pop-up lugs as taught by Moncrief et al. in the invention to Steele in order to further the transport of the containers when desired.

Response to Arguments

8. Applicant's arguments filed 5/14/08 have been fully considered but they are not persuasive. Regarding the limitation of the overlying section, see paragraph 2 above. note that during patent examination, the pending claims must be interpreted as broadly as their terms reasonably allow. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 320,322 (Fed. Cir. 1999). In determining the patentability of claims, the PTO gives claim language its broadest reasonable interpretation" consistent with the specification and claims. *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997). See MPEP § 904.1. Limitations not appearing in the claims cannot be relied upon for patentability; *In re Self*, 671 F.2d 1344, 1348 (CCPA 1982). Particular embodiments appearing in the written description are not to be read into the claims if the claim language is broader than the embodiment; see *Superguide Corp. v. DirecTV Enterprises, Inc.,* 358 F.3d 870, 875 (Fed.Cir. 2004).

Regarding pop-up lugs, lugs on a chain conveyor function to pop up as they round the end gearing system of the conveyor in order to enter into an engagement path with a product, as evidenced by the prior art. Selective control of the lugs to "pop-up" at a desired time, however requires further complexity not necessarily present in the

teachings of Steele. Disrud is therefore relied upon for evidencing a known manner of accomplishing this control. One of ordinary skill would have been fully capable of looking to Disrud for a conveyor of a known type to be used in the invention to Steele (as expressly suggested by Steele); as noted above.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher R Harmon/
Primary Examiner, Art Unit 3721